

Exhibit 35

1 UNITED STATES DISTRICT COURT

2 FOR THE WESTERN DISTRICT OF NEW YORK

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4 **BLACK LOVE RESISTS IN THE RUST, et al.,**
5 **individually and on behalf of a class of**
6 **all others similarly situated,**

7 Plaintiffs,

8 -vs-

1:18-cv-00719-CCR

9 **CITY OF BUFFALO, N.Y., et al.,**

10 Defendants.
11 -----

12 **ORAL EXAMINATION OF DAVID WILCOX**

13 **APPEARING REMOTELY FROM**

14 **SARASOTA COUNTY, FLORIDA**

15
16 Thursday, November 4, 2021

17 9:02 a.m. - 2:47 p.m.

18 pursuant to notice
19
20

21 REPORTED BY:

22 Carrie A. Fisher, Notary Public

23 APPEARING REMOTELY FROM ERIE COUNTY, NEW YORK

DEPAOLO CROSBY REPORTING SERVICES, INC.

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—DAVID WILCOX - BY MS. WILLIAMS - 11/04/21—

1 There was no upward mobility there. I was
2 looking for a change of scenery.

3 Q. Did you apply to join the Strike Force Unit?

4 A. Yep.

5 Q. And you said you were there for 16 years in
6 the Strike Force Unit, correct?

7 A. No, 16 years in Precinct 12/C District. I am
8 sorry. I should have clarified.

9 Q. No, no, that's fine.

10 How long were you with the Strike Force
11 Unit?

12 A. Until I retired in December of 2016.

13 Q. And what was your position when you -- you
14 joined as a lieutenant. What was your
15 position throughout your time at the Strike
16 Force?

17 A. As a lieutenant.

18 Q. What were your primary duties in the Strike
19 Force Unit?

20 A. I and the other lieutenant that I served with,
21 George McLean, we had a platoon of officers
22 and we were responsible for, you know,
23 whatever the Strike Force initiatives were on

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—DAVID WILCOX - BY MS. WILLIAMS - 11/04/21—

1 any given day.

2 Q. And what did supervision of the Strike Force
3 entail?

4 A. You know, assignment of -- we were a small
5 unit for the most part so I believe we had
6 like five car crews when we were full and just
7 assigning people to what areas of the city we
8 were going to patrol and stuff like that,
9 whether we were doing checkpoints on any given
10 day and where and what time and maintaining --
11 making sure the payroll was processed and
12 given to the report technician, things like
13 that, disseminating information from whatever
14 agencies might have been putting out
15 information and stuff like that.

16 Q. You retired in December 2016. Was there any
17 other reason that you left the Strike Force
18 Unit or was it just because you were tired,
19 wanted to retire?

20 A. Yeah, I had had enough and I was tired, you
21 know. I was not getting any younger and it's
22 a young man's -- young person's profession.

23 Q. Did you receive a pension when you left the

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—DAVID WILCOX - BY MS. WILLIAMS - 11/04/21—

1 police commissioner." Do you see that?

2 A. I do.

3 Q. Okay. To what extent does that -- to what
4 extent does that sentence accurately reflect
5 the actual practice of checkpoints -- at
6 checkpoints?

7 MR. QUINN: Object to form. You can
8 answer.

9 A. My understanding is we were given permission
10 to do checkpoints on a regular basis and
11 that's what we did and that came from the
12 commissioner's office on down.

13 Q. Did you -- you mentioned before that you
14 determined the locations of the checkpoints
15 sometimes, correct?

16 MR. QUINN: Object to form. You can
17 answer.

18 A. I determined the locations on certain days,
19 yes.

20 Q. And if you didn't determine the locations, who
21 did on the other days?

22 A. The captain, my partner George, one of the
23 other lieutenants if they were working.

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—DAVID WILCOX - BY MS. WILLIAMS - 11/04/21—

1 Q. Anyone else?

2 A. The commissioner may have. The commissioner
3 would have probably talked through the chief
4 and/or the captain, usually never to a
5 lieutenant. I don't recall him ever reaching
6 out to me specifically.

7 Q. Do you remember a time that you -- that you
8 were required to choose the location?

9 A. Specifically, no.

10 Q. Let me -- okay.

11 A. It was never like "pick a location,
12 lieutenant."

13 Q. And so you did -- just back to the sentence in
14 the MOP, it is your testimony then that the --
15 you were given permission to set up a
16 checkpoint but you were not always given the
17 location by the inspector, chief, deputy
18 police commissioner, or the police
19 commissioner; is that correct?

20 A. That is correct.

21 Q. And how were the --

22 MR. QUINN: Object to form.

23 Q. I will just stop sharing.

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—DAVID WILCOX - BY MS. WILLIAMS - 11/04/21—

1 How did you determine the locations of
2 the checkpoints?

3 MR. QUINN: Object to form. You can
4 answer.

5 A. On any given day it could be anywhere, to be
6 honest, unless there was some high priority
7 situation that led us to a certain area.

8 Q. Did you use any specific documentation,
9 criteria in determining the location?

10 A. No.

11 Q. Did you rely on crime reports?

12 A. I am sorry. I couldn't hear you, Keisha.

13 Q. Did you rely on crime reports?

14 MR. QUINN: Object to form. You can
15 answer.

16 A. On occasions, yes.

17 Q. Did you rely on information about gang
18 activity or have you ever relied on
19 information about gang activity?

20 MR. QUINN: Form.

21 A. Probably, yes.

22 Q. And what kind of information would you rely
23 on?

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1 months there really wasn't overtime. You
2 know, during the huge snowstorm that South
3 Buffalo got hit with the one year, you know,
4 just because South Buffalo was shut down we
5 were down there but, I mean, that was just
6 craziness. But overtime happened every
7 summer, you know, during the heat of the year
8 when the shootings are up and all of that
9 other activity is up. So our unit was very
10 productive so overtime was going to come our
11 way provided we maintained our productivity.
12 Otherwise, we probably would be disbanded the
13 year prior to that, you know.

14 Q. And just to repeat again when you say
15 "productivity," you're talking about tickets,
16 correct?

17 MR. QUINN: I don't think that's
18 accurate.

19 Q. I was going to list other things because he
20 said tickets. One of the things was tickets,
21 arrests.

22 A. I know that's your priority. Our priority was
23 guns and violence and violent people and, to

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1 be honest, all the officers that received
2 awards during my time there, it was related to
3 guns and violence, not tickets, not impounds
4 and that. And the officers that took all
5 those guns off the street, I mean, nobody was
6 hurt, not once during any of those
7 altercations, not once.

8 Q. And so if violence and guns was the main
9 focus, why did the Strike Force spend, you
10 know, so much time doing traffic enforcement?

11 MR. QUINN: Object to form, so much
12 time. You can answer.

13 A. That went from the highest office in the city
14 down to us.

15 Q. And the -- you mentioned before that the
16 platoon engaged in other traffic enforcement
17 outside of checkpoints; is that correct?

18 MR. QUINN: The Strike Force you're
19 asking about?

20 Q. The Strike Force, I am sorry. The Strike
21 Force.

22 A. Yeah. Once checkpoints were over, we went
23 about our business but, I mean, when you had

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1 STATE OF NEW YORK)

2 COUNTY OF ERIE)

3
4 I, Carrie A. Fisher, Notary Public, in and
5 for the County of Erie, State of New York, do
6 hereby certify:

7 That the witness whose testimony appears
8 hereinbefore was, before the commencement of
9 their testimony, duly sworn to testify the
10 truth, the whole truth and nothing but the
11 truth; that said testimony was taken remotely
12 pursuant to notice at the time and place as
13 herein set forth; that said testimony was
14 taken down by me and thereafter transcribed
15 into typewriting, and I hereby certify the
16 foregoing testimony is a full, true and
17 correct transcription of my shorthand notes so
18 taken.

19 I further certify that I am neither counsel
20 for nor related to any party to said action,
21 nor in anyway interested in the outcome
22 thereof.

23 IN WITNESS WHEREOF, I have hereunto
subscribed my name and affixed my seal this
1st day of December, 2021.

24
25 

26
27 Carrie A. Fisher
28 Notary Public - State of New York
29 No. 01FI6240227
30 Qualified in Erie County
31 My commission expires 5/02/23

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